

tribe under §166.100(c)(2) of this part; and

(ii) The land is not being used by an individual Indian landowner under §166.200 of this part.

(7) The individual Indian owners of fractionated Indian land, when necessary to protect the interests of the individual Indian landowners.

§ 166.206 What requirements apply to a permit on a fractionated tract?

We may grant a permit on behalf of all Indian landowners of a fractionated tract as long as the owners receive fair annual rental. Before granting such a permit, we may offer a preference right to any Indian landowner who:

(a) Is in possession of the entire tract;

(b) Submits a written offer to permit the land, subject to any required or negotiated terms and conditions, prior to our granting a permit to another party; and

(c) Provides any supporting documents needed to demonstrate the ability to perform all of the obligations under the proposed permit.

§ 166.207 What provisions will be contained in a permit?

A permit, at a minimum, must include:

(a) Authorized user(s);

(b) Conservation plan requirements;

(c) Prohibition against creating a nuisance, any illegal activity, and negligent use or waste or resources;

(d) Numbers and types of livestock allowed;

(e) Season(s) of use;

(f) Grazing rental payment, payment schedule, and late payment interest and penalties;

(g) Administrative fees;

(h) Tribal fees, if applicable;

(i) Payment method;

(j) Range unit number or name;

(k) Animal identification requirements;

(l) A description (preferably a legal description) of the permitted area;

(m) Term of permit (including beginning and ending dates of the term allowed, as well as any option to renew, extend or terminate);

(n) Conditions for making improvements, if any;

(o) A right of entry by the BIA for purposes of inspection or enforcement purposes;

(p) A provision concerning the applicability of tribal jurisdiction;

(q) A provision stating how trespass proceeds are to be distributed; and

(r) A provision for the permittee to indemnify the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials or the release or discharge of any hazardous material from the permitted premises that occur during the permit term, regardless of fault.

§ 166.208 How long is a permit term?

(a) The duration must be reasonable given the purpose of the permit and the level of investment required by the permittee to place the property into productive use.

(b) On behalf of the undetermined heirs of an individual Indian decedent owning 100 percent (%) interest in the land, we will grant or approve permits for a maximum term of two years.

(c) Permits granted for agricultural purposes will not usually exceed ten years. A term longer than ten years, but not to exceed 25 years unless authorized by other federal law, may be authorized when a longer term is determined by us to be in the best interest of the Indian landowners and when such permit requires substantial investment in the development of the lands by the permittee.

(d) A tribe may determine the duration of permits composed entirely of its tribal land or in combination with government land, subject to the same limitations provided in paragraph (d) of this section.

(e) A permit will specify the beginning and ending dates of the term allowed, as well as any option to renew, extend, or terminate.

(f) Permits granted by us for protection of the Indian land will be for no more than two years.

§ 166.209 Must a permit be recorded?

A permit must be recorded in our Land Titles and Records Office which has jurisdiction over the land. We will